

TTAB

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

Mailed: December 19, 2006

Applied Diabetes Research, Inc.  
1740 South IH-35, Suite 112,  
Carrollton, TX 75006  
UNITED STATES

Cancellation No. 92046783

Reg. No. 3071419

B. Brett Heavner  
Finnegan Henderson Farabow Garrett  
& Dunner LLP  
901 New York Avenue NW  
Washington, DC 20001-4413

76/479, 107

Unomedical A/S

V.

Applied Diabetes Research, Inc.

**Janice D. Hyman, Paralegal Specialist:**

A petition, a copy of which is attached, has been filed to cancel the above-identified registration.

Proceedings will be conducted in accordance with the Trademark Rules of Practice.

**ANSWER IS DUE FORTY DAYS** after the mailing date hereof. (See Trademark Rule 2.196 for expiration date falling on Saturday, Sunday or a holiday).

Proceedings will be conducted in accordance with the Trademark Rules of Practice, set forth in Title 37, part 2, of the Code of Federal Regulations. The parties are reminded of the recent amendments to the Trademark Rules that affect the rules of practice before the TTAB. See Rules of Practice for Trademark-Related Filings Under the Madrid Protocol Implementation Act, 68 Fed. R. 55,748 (September 26, 2003) (effective November 2, 2003); Reorganization of Correspondence and Other Provisions, 68 Fed. Reg. 48,286 (August 13, 2003) (effective September 12, 2003). Notices concerning the rules changes, as well as the Trademark Trial and Appeal Board Manual of Procedure (TBMP), are available at [www.uspto.gov/web/offices/dcom/ttab/](http://www.uspto.gov/web/offices/dcom/ttab/).

The parties are particularly referred to Trademark Rule 2.126 pertaining to the form of submissions. Paper submissions, including but not limited to exhibits and depositions, not filed in accordance



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with Trademark Rule 2.126 may not be given consideration or entered into the case file.

Discovery and testimony periods are set as follows:

Discovery period to open: 1/8/07

Discovery period to close: 7/7/07

30-day testimony period for party  
in position of plaintiff to close: 10/5/07

30-day testimony period for party  
in position of defendant to close: 12/4/07

15-day rebuttal testimony period  
for plaintiff to close: 1/18/08

A party must serve on the adverse party a copy of the transcript of any testimony taken during the party's testimony period, together with copies of documentary exhibits, within 30 days after completion of the taking of such testimony. See Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b). An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

**NOTE:** The Board allows parties to utilize telephone conferences to discuss or resolve many interlocutory matters that arise in inter partes cases. See the *Official Gazette* notice titled "Permanent Expansion of Telephone Conferencing on Interlocutory Matters in Inter Partes Cases Before the Trademark Trial and Appeal Board," 1235 TMOG 68 (June 20, 2000). The notice is available at <http://www.uspto.gov>. Interlocutory matters which the Board agrees to discuss or decide by phone conference may be decided adversely to any party which fails to participate.

If the parties to this proceeding are also parties to other Board proceedings involving related marks or, during the pendency of this proceeding, they become parties to such proceedings, they should notify the Board immediately, so that the Board can consider consolidation of proceedings.

#### New Developments at the Trademark Trial and Appeal Board

TTAB forms for electronic filing of extensions of time to oppose, notices of opposition, and inter partes filings are now available at <http://estta.uspto.gov>. Images of TTAB proceeding files can be viewed using TTABVue at <http://ttabvue.uspto.gov>.

ESTTA Tracking number: **ESTTA109621**Filing date: **11/15/2006**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	Unomedical A/S (formerly Maersk Medical A/S)		
Entity	Corporation	Citizenship	Denmark
Address	Kongevejen 2 Birkerød, DK-3460 DENMARK		

Attorney information	B. Brett Heavner Finnegan Henderson Farbow Garrett & Dunner 901 New York Avenue, N.W. Washington, DC 20001 UNITED STATES b.brett.heavner@finnegan.com Phone:202-408-4073
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**Registration Subject to Cancellation**

Registration No	3071419	Registration date	03/21/2006
Registrant	Applied Diabetes Research, Inc. 1740 South IH-35, Suite 112 Carrollton, TX 75006 UNITED STATES		
Goods/Services Subject to Cancellation	Class 010. First Use: 2004/06/30 , First Use In Commerce: 2004/06/30 Goods/Services: Infusion sets for subcutaneous infusion of therapeutic fluids to patients		

Attachments	Petition for Cancellation.PDF ( 3 pages )(112305 bytes )
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Signature	//B. Brett Heavner//
Name	B. Brett Heavner
Date	11/15/2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Unomedical A/S	)	
(formerly Maersk Medical A/S),	)	
Petitioner,	)	Cancellation No.: _____
	)	Reg. No. 3,071,419
v.	)	Mark: THINSET (and Design)
	)	Registered: March 21, 2006
Applied Diabetes Research, Inc.,	)	
Registrant.	)	

**PETITION FOR CANCELLATION**

Unomedical A/S (formerly Maersk Medical A/S) ("Petitioner"), a Danish corporation located and doing business at Kongevejen 2, DK-3460 Birkerød Denmark, believes that it is, or will be, damaged by Registration No. 3,071,419 for the mark THINSET and Design covering "infusion sets for subcutaneous infusion of therapeutic fluids to patients" in Class 10, owned by Applied Diabetes Research, Inc., a Texas corporation located and residing at 1420 Valwood Parkway, Suite 160, Carrollton, Texas ("Registrant"), and hereby petitions to cancel same.

As grounds for the cancellation, and based on information and belief, Petitioner alleges that:

1. Registrant is the owner of Registration No. 3,071,419 for the mark THINSET covering "infusion sets for subcutaneous infusion therapeutic fluids to a patient". Registrant filed its application on December 30, 2002, alleging a first use of the THINSET mark of June 30, 2004.

2. Petitioner is the owner of Registration No. 2,715,451 for the mark INSET covering "infusion set for use in connection with insulin pump treatment of diabetics" issued on May 13, 2003, claiming a foreign priority date of March 25, 2002 under the Paris Convention. Petitioner's priority date is prior to Registrant's filing date and alleged first use date.

3. Registration No. 2,715,451 is valid and subsisting, and Petitioner is currently using the INSET mark in the United States for the goods listed in its registration.

4. The goods and services set forth in Registration No. 3,071,419 are competitive with or closely related to Petitioner's goods marketed under the INSET mark and listed in Registration No. 2,715,451.

5. The THINSET mark fully encompasses Petitioner's INSET mark and presents a similar overall commercial impression to Petitioner's INSET mark.

6. In view of the similarities between the parties' marks, Registrant's mark, as applied to the goods listed in Registration No. 3,071,419 so resembles Petitioner's registered INSET mark that it is likely to cause confusion or to cause mistake, or to deceive in violation of the Lanham Act (15 U.S.C. § 1052(d)).

7. If Registrant is permitted to maintain its registration for the THINSET mark for the goods listed in Registration No. 3,071,419, such registration would be a source of damage and injury to Petitioner.

Wherefore, Petitioner prays Registration No. 3,071,419 be cancelled and that this Petition be sustained in favor of Petitioner.

If the filing fee is found to be insufficient for any reason, please charge the deficiency to Deposit Account No. 06-0916.

Respectfully submitted,

Dated: November 15, 2006

By: 

B. Brett Heavner  
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Attorneys for Petitioner  
Unomedical A/S

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United States Patent

Commissioner for Trademark

P.O. Box 1451

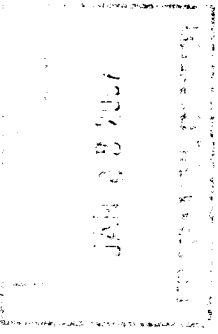
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92046783

APPLIED DIABETES RESEARCH, INC.  
1740 SOUTH IH-35  
SUITE 112  
CARROLLTON, TX 75006

by DLS